

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

TIMOTHY FELTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:18CV1111 RLW
	)	
SAFRON LOGISTICS, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on Plaintiff Timothy Felton's Motion to Compel Defendant Michael Mathenge's Deposition (ECF No. 27), Defendants Safron Logistics and Mathenge's Motion for Extension of Time (ECF No. 30), Plaintiff's Response to Defendants' Motion for Extension of Time and Plaintiff's Motion for Sanctions (ECF No. 31), and the parties' Joint Motion to Amend the Case Management Order (ECF No. 37).

Plaintiff's motion seeking to compel Mathenge's deposition details repeated efforts to schedule Mathenge's deposition and Plaintiff's counsel's good faith effort to resolve the issue before seeking the Court's intervention. Defendants' response explains the delay in taking Mathenge's deposition was due, in part, to coordinating a date and time with his new employer so he could be deposed while incurring the least amount of financial impact. Mathenge's deposition was completed on July 23, 2019. Consequently, Plaintiff's Motion to Compel Mathenge's Deposition (ECF No. 27) is now moot.

Prior to Mathenge's deposition, the Court granted the parties' Joint Motion for Extension of Time (ECF No. 25) to complete mediation with their jointly selected mediator on June 21, 2019. On June 19, 2019, Defendants' counsel advised Plaintiff's counsel that he and Defendants did not intend to appear at mediation. Defendants suggest in their Motion for Extension of Time (ECF No. 30) that they believed mediation would be more productive after Mathenge's

deposition. In his response, Plaintiff objects to Defendants' characterization of communications between counsel. Plaintiff also moves for the Court to impose sanctions on Defendants for canceling the scheduled mediation. Specifically, Plaintiff requests an order striking Defendants' pleadings as to liability, precluding Mathenge from testifying at trial, and for Plaintiff's time and costs incurred in preparing for mediation and for payment of any and all cancellation fees associated with the Defendants' unilateral cancelation of the scheduled mediation. (ECF No. 31)

Now that Mathenge's deposition has been completed, the case shall be referred to alternative dispute resolution again. Accordingly, Defendants' Motion for Extension of Time (ECF No. 30) is granted in part.<sup>1</sup> The Court finds that the conduct surrounding the originally scheduled deposition does not warrant the extreme sanctions Plaintiff requests; however, Plaintiffs shall be awarded costs associated with responding to the motion to extend mediation deadline and any cancellation fees associated with the mediation originally scheduled for June 21, 2019.

The parties have also filed a Joint Motion to Amend the Case Management Order. (ECF No. 37) Now that Mathenge has been deposed, the parties state they need additional time to conduct depositions of their respective accident reconstruction experts. Such depositions require the deadline to complete discovery and deadlines to file dispositive motions be extended. The Court finds these facts present good cause exists to amend the Case Management Order (ECF No. 12) in accordance with the parties' proposed dates.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff Timothy Felton's Motion to Compel Defendant Michael Mathenge's Deposition (ECF No. 27) is **DENIED as moot**.

**IT IS FURTHER ORDERED** that Defendants Safron Logistics and Mathenge's Motion for Extension of Time (ECF No. 30) is **GRANTED in part**. This case shall be referred to

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<sup>1</sup> Defendants' request the Court extend the deadline for completion of mediation to September 30, 2019. The Court, however, will change the associated dates in light of the parties' Joint Motion to Amend the Case Management Order (ECF No. 37).

alternative dispute resolution on September 2, 2019, and that reference shall terminate on September 20, 2019.

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Sanctions (ECF No. 31) is **GRANTED in part and DENIED in part**. Plaintiffs shall be awarded costs associated with responding to the motion to extend mediation deadline and any cancellation fees associated with the mediation originally scheduled for June 21, 2019.

**IT IS FINALLY ORDERED** that the parties' Joint Motion to Amend the Case Management Order (ECF No. 37) is **GRANTED**, and the Court will issue an Amended Case Management Order accompanying this Order.

Dated this 31<sup>st</sup> day of July, 2019.

  
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**RONNIE L. WHITE**  
**UNITED STATES DISTRICT JUDGE**